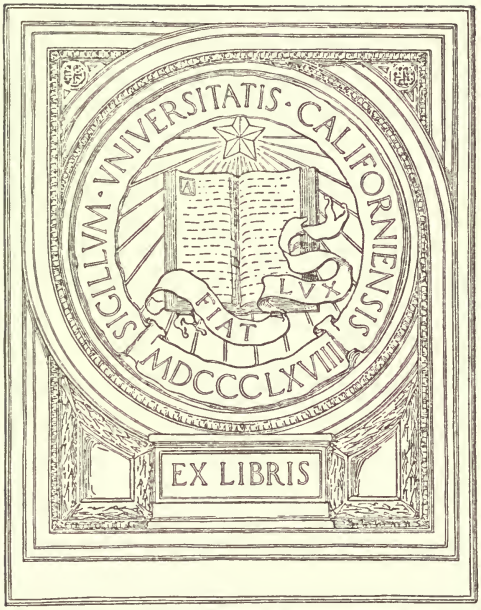
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SPEECH

OF

HON. JOHN M. READ,

IN FAVOR OF

FREE KANSAS, FREE WHITE LABOR, AND OF FREMONT AND DAYTON, AT THE EIGHTH WARD MASS MEETING, HELD IN THE ASSEMBLY BUILDINGS,

ON

TUESDAY EVENING, SEPTEMBER 30, 1856.

PHILADELPHIA:

1856.

SPEECH

OF

HON. JOHN M. READ.

FELLOW CITIZENS:—Was the Missouri Compromise constitutional? Was its nullification a breach of national faith and a violation of national honor? Is not its restoration called for by the truest intents of humanity and freedom? Shall Kansas be slave or free?

These are the true issues involved in our coming elections, and can there be a doubt that the people of Pennsylvania will enlist in the great army of freedom to carry free soil, free speech, a free press, and free labor into invaded and subjugated Kansas. No man can speak, write, or even think his true opinions upon the subject of slavery in Kansas as it is now governed, by laws made by a legislature, elected not by the resident voters of Kansas, but by an army of Border Ruffians from Missouri, and supported by the President and army of the United States, whose bayonets are used to stab freedom to the heart.

These questions, the greatest that have occurred since the formation of the Constitution, should be discussed calmly and temperately, our object being to convince all dispassionate men of all parties that we are right.

We have on our side, the Constitution and its uniform construction by its framers, the patriots and sages of the revolution—by the father of his country—the author of the Declaration of Independence—and by all the Constitutional lawyers and statesmen of the Union. The proof of this is to be found in the history of the Constitution, of the Ordinance of 1787, of the Compromise of 1820, and of the uniform practice under them by all departments of the government.

It is hardly necessary to say that all our revolutionary patriots were in favor of freedom, and opposed to slavery as "a great political and moral evil." Mr. Jefferson looked forward to a gradual emancipation in the States by State authority. "I think," said he "a change is already perceptible since the origin of the present revolution. The spirit of the master is abating, that of the slave is rising from the dust, his condition mollifying, the way, I hope, preparing under the auspices of Heaven, for a total emancipation, and that this is disposed in the order of events to be with the consent of the masters rather than by their extirpation."

The articles of confederation were signed by New Jersey, Delaware and Maryland, with great hesitation, and by the last not until Congress had requested, and two States had actually ceded their claims to Western Territory for the benefit of the United States.

The resolution of the 10th October, 1780, contemplated the disposal by Congress of the unappropriated lands ceded to the United States, and their settlement and formation into distinct republican States. The several cessions were made in due form by the States of New York, Virginia and Massachusetts. The claims of these States were founded originally on the terms of their respective charters, and included not only the soil and the right of pre-emption but as complete a jurisdiction and right of sovereignty over the Territory and its inhabitants as if it had been in the most densely populated part of their Atlantic possessions.

When, therefore, these States, and particularly Virginia, executed their deeds of cession, they parted with the soil the right of pre-emption and the sovereignty or jurisdiction which they claimed to exercise within their charter limits, and the whole vested in the United States of America. No one could *sell the lands*, or *govern the people in those Territories* but their recognised organ, the Congress of the Confederation, and we accordingly find that both objects were separately the subjects of distinct congressional legislation.

The government of the people was the first object, and the preparation of the ceded Territories for their erection into republican States, which should become sovereign members of the confederacy. Accordingly, on the 19th of April, 1784, Congress took into consideration the report of a committee, consisting of Mr. Jefferson, Mr. Chase, and Mr. Howell, to whom was recommitted their report of a plan for the temporary government of the Western Territory. A motion was made by Mr. Spaight, of North Carolina, seconded by a delegate from South Carolina, to strike out this paragraph:

"*That, after the year* 1800 *of the Christian era, there shall be neither slavery nor involuntary servitude in any of the said States otherwise than in punishment of crimes, whereof the party shall have been convicted to have been personally guilty.*"

It was struck out, all the States north of Mason and Dixon's line voting for it, as well as Mr. Jefferson and Mr. Williamson of North Carolina. After some other amendments the resolution was adopted on the 23d of April. This report, and particularly this provision against the existence of slavery in the new States, was understood to be the production of Mr. Jefferson.

This resolution provided for the temporary government of the North Western Territory, and prescribed the size of the States and the time and manner of their admission, and the principles upon which both the temporary and permanent governments should be established. It is clear that neither Mr. Jefferson nor any member of that Congress doubted the power of that body to acquire territory and to legislate for it and its people, by providing first a temporary government, and secondly for the future formation of independent sovereign States, which should be admitted into the confederacy—and still further, it is equally clear that Mr. Jefferson and a real majority of the States included the power to prohibit slavery as

within their legitimate authority. Congress having thus provided a plan for the temporary and permanent government of the Territory, next directed their attention to the sale of the public lands within it to which the Indian titles had been extinguished.

On the 7th May, 1784, a Committee, of which Mr. Jefferson (who had been the Chairman of the Committee on the plan for the government of the Territories) was Chairman, reported "an ordinance for ascertaining the mode of locating and disposing of lands in the Western Territory, and for other purposes therein mentioned." This ordinance, as amended, passed on the 20th May, 1785, and formed the ground-work of the present land laws of the United States.

The Congress of the confederation, therefore, exercised separately the two distinct branches of their sovereign power over the Western Territory. 1st. By organizing governments for the people. 2d. By adopting a plan or ordinance for disposing of the lands in said Territory.

It was, however, deemed expedient to repeal the Resolve of the 23d April, 1784, which was accordingly done by Congress, who, on the 13th July, 1787, passed the celebrated ordinance for the government of the Territory of the United States Northwest of the river Ohio.

It regulated the descent of intestate estates in the Territory, and also devises by will and the conveyance of real estate, with the mode of proof, acknowledgment and record, and established also the transfer of personal property by delivery, saving to the French and Canadian inhabitants and other settlers of the Kaskaskias, St. Vincents, and the neighboring villages who had theretofore professed themselves citizens of Virginia, their laws and customs then in force relative to the descent and conveyance of property.

It then gave a temporary government to the Territory or District, consisting of a Governor, Secretary, and three Judges, the Governor and Judges being invested with legislative power until the organization of a General Assembly, which was to consist of the Governor, a Legislative Council, appointed by Congress from the nominations made by the Representatives, and a House of Representatives, which Council and House were authorized, by joint ballot, to elect a Delegate to Congress, who was to have a seat with the right of debating, but not of voting, during this temporary government.

The second or permanent part of the ordinance, established the principles in the shape of articles, which were six in number, by which both the temporary and permanent governments should be for ever regulated, and provided for the formation of not less than three, nor more than five States in the Territory, and their admission into the Union; provided, the constitution and government to be formed by such States, should be republican, and in conformity to the principles contained in the said articles.

The sixth of these articles which applied expressly to the Territory, whether under the temporary or permanent form of government, declared *the freedom of the soil by prohibiting forever the existence of slavery within this favored region*—a provision which was merely an enlargement of *Mr. Jefferson's favorite proposition in the Congress of* 1784.

This article, which is one of those declared to be unalterable, except by common consent, is in these words:

"There shall be neither slavery nor involuntary servitude in the said Territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted; provided always, that any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor, or service as aforesaid."

This ordinance had been the subject of discussion in Congress ten months before its adoption. Mr. Gorham, Mr. King, Mr. Madison and Mr. Butler, who were members of the Federal Convention, were also delegates in the Congress which sat in New York. Mr. Madison was present in Congress whilst this ordinance was on second reading, and we find his name on the Journal, on the 22d April, 1787, and on the next day he wrote a letter to Mr. Jefferson, from New York, in which he says, "*the present deliberations of Congress turn on, first, the sale of the Western lands; secondly, the government of the Western settlements within the Federal domain.*

On the 9th May, Congress proceeded in the second reading of the Ordinance, and it was ordered to be transcribed, and the next day was assigned for a third reading. On the 10th May, when it came up in order, it was postponed, Messrs. Gorham and King were then present, and voting, as appears by the Journal. From the 11th May to the 6th July, Congress only met and adjourned, there not being a quorum; and on the 11th July, the Committee to whom it had been referred, reported the Ordinance, and it was read a first time on the 12th, and a third time on the 13th.

The passage of this Ordinance is mentioned in the *Pennsylvania Packet* of the 21st July, 1787, published in Philadelphia, by John Dunlap and David C. Claypoole, and the whole appeared at length in the August number of Matthew Carey's *American Museum* for that year.

The Federal Convention adjourned on the 26th July until Monday, the 6th August, and on Thursday, the 2d August, Mr. Pierce Butler appeared in Congress, in New York, and produced his credentials as a delegate from South Carolina.

On the 28th August, in the Federal Convention, Mr. Butler and Mr. Pinckney moved, to require fugitive slaves and servants to be delivered up like criminals. This was opposed, because it would oblige the Executive of the States to do it at the public expense, and the proposition was withdrawn. On the next day Mr. Butler moved a proposition which was evidently taken from the sixth article of the Ordinance of the 13th July, and which in more compact phraseology forms the third clause of the second section of the fourth article of the Constitution.

After the adjournment of the Convention, on the 17th September, Mr. Gorham, Mr. King, Mr. Butler, and Mr. Madison, took their seats again in Congress, at New York, and we find the names of three first named gentlemen on the Journal, on the the 24th September, and on the next day that of Mr. Madison also, who, on the 30th, wrote to General Washington respecting the feelings of Congress, and of the people in relation to the act of the Convention. On the 5th of October, General St. Clair was elected Governor, and Winthrop Sargent Secretary of the North-Western Territory.

By a convention between the States of South Carolina and Georgia, concluded at Beaufort, on the 28th of April, 1789, South Carolina ceded to the State of Georgia, all the right, title and claim, which the said State of South Carolina had to the government, sovereignty and jurisdiction in and over the lands, west of the most northern Branch of the Tugaloo River, and also the right of pre-emption of the soil from the native Indians, and all other the estate, property and claim which the

State of South Carolina had in or to the said lands, and on the 9th August, in the same year, made a cession of soil and jurisdiction to the United States, of what was apparently already ceded to Georgia.

At the time therefore of framing the Constitution, the settled policy of the United States was clearly and distinctly defined and known to all the members of the Federal Convention. It was—1. To dispose of the public lands; this was the subject of a separate system, which has always been kept by itself, and forms the business of a distinct department of the Government.

2. To legislate for and to form temporary or Territorial Governments, for the Territory belonging to the United States.

3. To provide for the admission of new States.

All these powers had been exercised, without question, by Congress, and we have the highest authority for saying, that the power of acquiring territory, necessarily brings with it the power of Legislation. Whilst in its territorial form it does not appear to have been doubted that such a power would exist without any positive provision in the Constitntion.

A provision was therefore made for the admission of the new States, but in the original report the Territories were entirely omitted.

Upon a suggestion, however, of Mr. Carroll of Maryland, who was afraid that the claims of the United States to the Western Territory might be denied, if not mentioned in the Constitution, that which now forms the second clause of the third section of the 4th article was adopted.

The whole tuird section refers 1. To the admission of new States. 2. To the disposal of the public lands, which is included in the words "The Congress shall have power to dispose of the *Territory*, or other property belonging to the United States," the words being the same as those used in the Land Ordinance of the 28th May, 1785, which says, "The Territory ceded shall be disposed of in the following manner. 3. To the legislation for the temporary government of the Territories which are provided for in the words "Congress shall have power to make all needful rules and regulations respecting the Territory or other property belonging to the United States" using the word Territory in its largest sense as understood in the Deeds of Cession and in the Ordinance of 13th July, 1787. This means Jurisdiction and Sovereignty, and confers upon or recognizes in Congress the same power as had been exercised by the old Congress.

This is made more evident when we refer to the concluding words in this clause, "and nothing in this constitution shall be so construed as to prejudice any claims of the United States or of any particular States." Now this means neither more nor less than the claims of either to the jurisdiction, soil and sovereignty of the Western country.

The word Territory, in its largest sense, includes lands, soil, jurisdiction and sovereignty, and as the power to sell includes the lesser power to mortgage, so the power to dispose of Territory, supposing it used in its most extended meaning, includes the power to sell the public lands agreeably to the present system, which commenced before the adoption of the Constitution.

The cession of Virginia included in it Lake Michigan, an inland sea, half of Lake Erie, Huron and Superior, and a tract of country equal to many of the kingdoms of the old world. How absurd, then, is it at this day to apply to a constitution for an empire, a construction which would be rejected, not simply by statesmen of enlarged intellect, but by the humblest lawyer that ever practiced before a justice of the peace.

The words territory and territories as used in the original charters, of the various colonies, in the public documents preceding and succeeding the articles of confederation in the cessions from the various States and in the contemporaneous legislation of the old Congress, included soil, land and water jurisdiction domain and sovereignty. The same meaning has been attached to them in our treaties with foreign powers, in the Acts of Congress, and even in the celebrated resolution for the conditional admission of Texas, and in some cases they have been used to designate the whole of the United States, whether States or Territories.

The original title to a new country is founded on the right of discovery, and it confers upon the nation discovering it the sovereignty and jurisdiction with the right of pre-emption of the soil from its aboriginal inhabitants. This right belongs to it in its sovereign capacity, which enables it to extinguish the Indian title and to perfect its dominion ever the soil and dispose of it according to its own good pleasure.

In the new territories therefore of America, discovery and the purchase of the Indian title, vested in the government the soil, jurisdiction and sovereignty of the country, and of course of its inhabitants.

In the second charter of Virginia, in 1609, the words used are "lands, countries, and territories," and in the second charter of Carolina, in 1677, the grant is of "all that province, territory, or tract of land," and "together with all and singular, the ports, harbours, bays, rivers, and inlets belonging unto the province or territory aforesaid," and in the charter of the province of Massachusetts, of 1691, the words Province and Territory are used as synonymous, and in speaking of it it is called by William and Mary "our said Province or Territory."

In the Georgia charter, in 1732, the grant was of "all those lands, countries, and territories;" and the 7th Article of the definitive Treaty of Peace between Great Britain, France and Spain, concluded at Paris on the 10th of February, 1763, speaks of "the limits of the British and French territories on the continent of America," which are irrevocably fixed by that treaty.

By the 9th of the Articles of Confederation, federal courts were directed to be constituted to settle disputes between two or more States, concerning boundary, jurisdiction or any other cause whatever, each judge of such courts was to be sworn, and it was provided that "*no State shall be deprived of territory for the benefit of the United States.*" All controversies concerning the private right of soil claimed under different grants of two or more States, whose jurisdiction, as they may respect such lands, had been adjusted, were to be finally determined as near as might be in the same manner as was prescribed for deciding disputes concerning territorial jurisdiction between different States.

In the provisional articles of peace of the 30th November, 1782, the King of Great Britain acknowledged the independence of the United States, and relinquished all claims to the Government propriety and territorial rights of the same, and every part thereof.

In Jay's Treaty, in the 9th Article, the words "territories of the United States" are used in the largest sense, comprehending both States and Territories, as also in the 14th Article, which secures a reciprocal and perfect liberty of navigation and commerce between all the dominions of the King of Great Britain in Europe and the territories of the United States.

The 15th and 16th Articles use the word territories in the same extensive sense, and the 13th relates to the admission of American vessels into the ports and harbors of the "British territories in the East Indies."

The same extended meaning of territory and territories is to be found in the law and other treaties of the United states, as in the Louisiana treaty, by which France ceded to the United States, *"forever and in full sovereignty," the Territory* of Louisiana, in the treaty of Ghent, and in the Convention of 1815, "to regulate the commerce between the territories of the United States and his Britannic Majesty," in the Convention with Great Britain of 20th October, 1818, which left open for ten years the country west of the Stony Mountains, to the vessels, citizens and subjects of the two powers. In the treaty of 1819, by which the King of Spain ceded to the United States, the Territories of East and West Florida, and all his right to the territories east and north of a line fixed by the treaty, and by which we ceded the Territory of Texas to Spain, in the 8th section of the Missouri Act of 1820, and in the Convention with Great Britain, of the 6th August, 1827, "with respect to the territory on the north-west coast of America, west of the Stony or Rocky Mountains—in the Convention between the United States and the Republic of Texas, of the 25th April, 1838—in the treaty with Great Britain, of the 9th August, 1842—in the joint resolutions for annexing Texas to the United States, and lastly, in the celebrated treaty of the 15th July, 1846, which was "to terminate the state of doubt and uncertainty which had hitherto prevailed respecting the sovereignty and government of the territory on the north-west coast of America, lying westward of the Rocky or Stony Mountains.

So the words "rules and regulation" in the language of that day, included all ordinary acts of legislation, as well as the framing of temporary governments for the people of the territories. How much has been done for the prosperity and happiness of our beloved country under the words, "Congress shall have power to regulate commerce with foreign nations, and among the several States and with the Indian tribes."

This power to make needful rules and regulation was to be carried into execution by Congress agreeably to the first article of the Constitution.

It is clear that the legislative body of the United States, the Congress, had the power to govern the territories, either directly or by the intervention of a territorial form of government, whether that be of the first or second grade, and this depends not only upon necessity but upon the express terms of the Constitution, which leaves not a shadow of doubt upon the subject. Over the territories within the limits of the Constitution the power of Congress is supreme, and all territorial legislation is subordinate to it. The territories belong to the United States, and its supreme legislature, the Congress, has no restrictions upon the legislation, *and it can and it has, whenever it pleased, prohibited slavery, which is a mere municipal institution within their borders.* What other legislative body has any power within their limits? Certainly not the Legislature of any State, for the present Territories, which are all West of the Mississippi, never belonged to any State in the Union, but are all acquisitions from foreign powers. If the Legislature of one State has such power, then the Legislatures of all the other States have the same power, and, of course, the Territories would be subjected to the disjointed legislation of sixteen free and fifteen slave States. This is too gross an absurdity to need refutation, and it is equally absurd to say that each man carries with him the laws of his own State, for that would be giving to a citizen a power which is denied to the Legislature of his State, and to the State itself.

These positions are entirely supported by the whole legislation of Congress from 1789 to the Kansas-Nebraska act. On the 7th August, 1789, Congress passed an act to provide for the government of the Territory North-west of the river Ohio, which, after reciting that, in order that the Ordinance of the United States in Congress assembled, for the government of the territory North-west of the river Ohio, may continue to have full effect, it is requisite that certain provisions should be made, so as to adapt the same to the present Constitution of the United States, enacted that all communications which were directed to be made by the Governor to Congress or their officers, should be made to the President, and that the officers which, by the Ordinance, were to be appointed by Congress, should be appointed by the President, by and with the advice and consent of the Senate, and in cases where the United States in Congress assembled might, by the Ordinance, revoke any commission or remove from any office, the President was to have the same powers of revocation and removal; and in the case of the death, removal, or necessary absence of the Governor, the Secretary was to perform all his duties during the vacancy. This act was necessary in order to transfer the Executive powers, which had been exercised by the Congress of the confederation, to the Chief Magistrate, to whom they were confided by the new Constitution. This is a clear, unqualified recognition and ratification of the Ordinance in its double character of a law and a compact, and was made by a Congress of which Mr. Madison and other delegates in the late federal Convention were members.

The Constitution of the United States has not the word *slave* in it—our ancestors would have been ashamed to send it down to posterity as a slave document, and there are but five places in the Constitution in which there is any allusion to this class of persons.

1. In the 3d clause of the 2d section of the first article "Representatives and direct taxes shall be apportioned among the *several States* which may be included in this Union according to their respective *numbers*, which shall be determined by adding to the whole number of *free persons*, including those bound to service for a term of years and excluding Indians not taxed, *three-fifths of all other persons.*

2. In the first clause of the ninth section of the first article, which is *obsolete*, "The migration or importation of *such persons* as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year 1808, but a tax or duty may be imposed on such persons not exceeding ten dollars for *each person.*"

3. The fourth clause of the same section—"No capitation or other direct tax shall be laid unless in proportion to the census or enumeration hereinbefore directed to be taken," referring to the third clause of the second section already quoted.

4. The third clause of the second section of the fourth article—"No person held to service or labor in one State under the laws thereof escaping into another shall in consequence of any law or regulation therein be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due."

5. The fifth article relates to the amendment and has a proviso which is now obsolete—"Provided that no amendment which may be made

prior to the year 1808 shall in any manner affect the first and fourth clauses of the ninth section of the first article."

The 2nd and 5th of these paragraphs are obsolete, but in all and every of them slaves are spoken of as persons not things, as human beings and not as chattels or property. The first relates to the census and enumeration, for representatives and direct taxation, and they are expressly called persons, are numbered and classed as a part of the population of the United States, and are so counted and considered,in relation to the other nations of the world. For the purposes only of representation and direct taxation, having no voice in electing the one, or in laying the other, they are rated at 5 to 3 in order to reduce the power of the actual voters in those States were they exist by force of municipal law only. The 3d paragraph is inserted from a wise caution, for if a capitation or poll tax had been laid without this special reference of it to the representative numbers, it would have been imposed upon each head of the whole population, whether white or black, slave or free, as a direct tax means a tax assessed on real estate, as houses and lands.

The 4th paragraph, which has been the subject of so much controversy, is clear upon this point. The fugitives from labor are called and treated as persons only, and this provision has been held to apply to white apprentices and other persons, who are not called slaves, in any of the States of the Union.

It is clear, then, that the Constitution imposes no limit upon the power of Congress over slavery in the Territories or in the District of Columbia, in which last, it is expressly empowered "*to exercise exclusive legislation in all cases whatsoever.*"

But there have been repeated recognitions of the validity of the Ordinance of 1787, since the adoption of the Constitution, and every new State within the original limits of the United States, with the exception of Vermont and Kentucky, has been admitted by virtue and in pursuance of its provisions.

The cession by North Carolina of her Territory west of the mountains to the United States, on the 25th of February, 1790, was made and accepted upon the express condition that all the provisions of the ordinance of 1787 should be extended to it with the exception of the 6th article.

On the 24th of April, 1802, by articles of cession and agreement, Georgia ceded to the United States all her right to the jurisdiction and soil of the lands within the boundaries of the United States, south of the State of Tennessee, and west of the Catachouchee, upon conditions similar to those in the cession by North Carolina. Out of these two grants have arisen three Territorial Governments, all administered under the provisions of the great Ordinance, and out of these three Territories, three States have come into the Union, viz:—Tennessee, admitted on 1st June, 1796; Mississippi, on 10th December, 1817, and Alabama, on the 14th December 1819. In their Constitutions, and in the acts of admission, and in the two latter cases in the acts of Congress passed preparatory to their formation of State Governments, the Ordinance of 1787 is distinctly recognised and made the basis of both Congressional and State action.

It can therefore be truly and emphatically said that Tennessee, Mississippi and Alabama, are States by virtue of the Ordinance of 1787, *and that they should be the very last in the Union to dispute the validity or constitutionality of this celebrated compact, to which they owe their independent existence as component members of the confederacy.*

On the 7th May, 1800, the North Western Territory was divided, and a new Territory created called Indiana, and on 3d February, 1809, the Illinois Territory was also taken from Indiana. All these acts of Congress established governments in conformity to the Ordinance of 1787, and the act of the 7th August, 1789, and extended the privileges secured to the people of the Territory North West of the river Ohio by the Ordinance, to the inhabitants of these respective Territories.

The various acts enabling the people of Ohio, Indiana and Illinois to form Constitutions and State Governments preparatory to admission into the Union—the Constitutions, thus formed, and the acts admitting them, recognised all the principles of the Ordinance in their fullest extent.

Ohio was admitted into the Union on the 19th February, 1803, Indiana on the 11th December, 1816, and Illinois on the 3d December, 1818. By the Act of 19th April, 1816, (which is a type of the others,) providing for the admission of Indiana, it is enacted that the Consiitution and State Govenment, "whenever formed, shall be republican and not repugnant to those articles of the Ordinance of the 13th July, 1787, which are declared to be *irrevocable* between the original States and the people and States North-west of the River Ohio, excepting so much of the said articles as relate to the boundaries of the States therein formed."

And by the preamble of the resolution of Congress, of the 11th December, 1816, admitting Indiana, it is expressly declared that the "Constitution and State Government so formed is Republican *and in conformity to the principles* of the articles of compact between the original States and the people and States in the Territory North-west of the River Ohio, passed on the thirteenth day of July, one thousand seven hundred and eighty-seven."

We are now to trace the Congressional history of the legislation in relation to the Territory of Louisiana, purchased by Mr. Jefferson from France.

By the act of the 31st October, 1803, all the military, civil and judicial powers exercised by the officers of the existing government of Louisiana were temporarily vested in such persons, and to be exercised in such manner as the President should direct, for maintaining and protecting its inhabitants in the free enjoyment of their liberty, property and religion, and by the act of the 21st March, 1804, it was divided into two Territories, the southern part being called the Territory of Orleans, and the residue of the ceded province was named the District of Louisiana. The Orleans Territory had a Governor, Secretary, Judges and Legislative Council, whilst the District of Louisiana was to be governed by the Governor and the Judges of the Indiana Territory. The 7th section contained stringent provisions against the importation of slaves from other States, except under particular restrictions, and all slaves imported contrary to this act were entitled to their freedom.

On the 2d March, 1805, an act further providing for the government of the Territory of Orleans was passed, by which the President was authorized to establish within that Territory a government in all respects similar (except as thereinafter provided) to that then exercised in the Mississippi Territory, and he was also to appoint all officers necessary therein, in conformity with the ordinance of Congress, made on the 13th day of July, 1787, and the inhabitants of the Territory of Orleans were to be entitled to all the rights, privileges and advantages secured by the said ordinance, and those enjoyed by the people of the Mississippi Territory.

So much of the said Ordinance of Congress as

relates to the organization and powers of a General Assembly, were to be in force after the 4th of July, 1805, and it was provided that the second paragraph of the said Ordinance, which regulates the descent and distribution of estates, and also the 6th article of Compact, which is annexed to and makes part of said Ordinance, were not to extend to, but were excluded from, all operation within the said Territory of Orleans.

Whenever it should be ascertained by a census taken by the proper authority, that the number of free inhabitants amounted to 60,000, then they were authorized to form for themselves a constitution and State government, and be admitted into the Union upon the footing of the original States, in all respects whatever, conformably to the provisions of the 3d Article of the Treaty concluded at Paris, on the 30th day of April, 1803, between the United States and the French Republic; Provided that the Constitution so to be established shall be Republican and not inconsistent with the Constitution of the United States *nor inconsistent with the Ordinance of the late Congress, passed the 13th day of July*, 1787, *so far as the same is made applicable to the territorial government thereby authorized to be established.*

On the 3d March, 1805, Congress passed another act providing for the government of the District of Louisiana, which changed its name to that of the Territory of Louisiana, vested the executive power in a Governor and Secretary and appointed three Judges, to whom and to the governor the Legislative power was given.

By an act passed 20th February, 1811, the inhabitants of the Territory of Orleans, within the limits therein described, were authorized to form a State Constitution and Government under the provisions, and upon the conditions thereinafter mentioned. If the Constitution so formed was not disapproved of by Congress at their next session after its receipt, the State was to be admitted into the Union. The Constitution was so formed in pursuance of this act, and on the 8th of April, 1812, Louisiana was admitted into the Union upon the conditions expressed in that act, and the act of 1811.

On the 4th June, 1812, Congress passed an act providing for the government of the Territory of Missouri, by which the Territory heretofore called Louisiana was called Missouri, and was organized by vesting the Executive power in a Governor, with a Secretary and a Legislative power in a general assembly, consisting of the Governor, a Legislative Council and a House of Representatives, and the citizens were authorized to elect a delegate from the said Territory in Congress. This act embodied some of the most important prineiples of the Ordinance of 1787.

By an act passed the 2d March, 1819, the Southern part of the Missouri Territory was erected into a separate government, called Arkansas. The Executive power was vested in a Governor with a Secretary, the judicial in three Judges, and the legislative in the Governor and Judges, until the organization of the General Assembly, which was to take place whenever the Governor was satisfied it was the wish of a majority of the freeholders, at which time they were also allowed to elect a delegate to Congress. By an act relative to the Arkansas Territory, passed the 21st April, 1820, the act of the 4th June, above quoted, as modified by the act of the 29th of April, 1816, was to be considered as applicable to the government of the Territory of Arkansas, and to have reference to the proceedings of the said Territory in the organization of the second grade of the Territorial government, assumed by the said Territory, under the said act of 2d March, 1819.

The narrative of the consistent and unvarying legislation by Congress, both in regard to the admission of States and the government of Territories, brings us to the Missouri question, which terminated in the celebrated Compromise, which *pro-slavery politicians* of the present day declare to be unconstitutional.

By the purchase of Louisiana we had acquired a claim to what was called Texas, and our Western boundary in that quarter, between us and Spain, was unsettled and undefined. Spain owned the Floridas, which, by a resolution and acts passed in secret session in 1811 and 1812, but not published until 1818, Congress had determined should not pass into any other hands than our own.

By the treaty of the 22d February, 1819, we acquired the Floridas, and ceded to Spain all our claims to territory lying South and West of a boundary line West of the Mississippi, beginning at the mouth of the Sabine River in the Gulf of Mexico, and terminating on the parallel of 42 N. latitude in the South Sea, including in such cession the province of Texas.

The people of the Missouri Territory applied to Congress in the winter of 1818–1819, for the passage of an act to enable them to form a Constitution and State government, preparatory to their admission into the Union as a State. Such an act passed the House of Representatives, but with a clause declaring that "the further introduction of slavery or involuntary servitude, except for the punishment of crimes whereof the party shall have been duly convicted, shall be prohibited, and all children born within the said Territory after its admission into the Union as a State, shall be free, but may be held to service until the age of twenty-one years," which was, however, negatived in the Senate.

Their application was renewed at the next session. In the meantime the three great States of New York, Pennsylvania and Ohio, had unanimously remonstrated against the admission of Missouri, except with the restriction above mentioned. The House adhered to its former determination, whilst the Senate was equally obstinate, and complicated the question by uniting the fate of Missouri with that of Maine, which by the terms of the act of Massachusetts, must procure the assent of Congress before the 4th of March, 1820. In order, however, to induce some of the majority of the House to give way, the Senate passed what is now the 8th section of the act of 6th March, 1820, prohibiting slavery in all the territory ceded under the name of Louisiana, north of latitude 36 degrees 30 minutes and west of the State of Missouri. After a very protracted struggle, the clause prohibiting slavery in the State was lost by a vote of 90 to 87, and the 8th section as it now stands was carried by an overwhelming majority. This forms what is called the Missouri Compromise.

The whole real contest during the two sessions was in relation to the prohibition of slavery in the State. "On that occasion," says Judge Story, "the question was largely discussed whether Congress possessed a Constitutional authority to impose such a restriction, upon the ground that the prescribing of such condition is inconsistent with the sovereignty of the State to be admitted, and its equality with the other States. The final result of the vote which authorized the erection of that State seems to establish the rightful authority of Congress to impose such a restriction, though it was not then applied."

This is strictly true, and there is no doubt that Misssouri never would have been admitted except with this restriction or condition, but for the fact

that the Senate connected it with the admission of Maine, which gave the advocates of Missouri the votes of the members from that district, as well as of those of several other New England Congressmen.

The vote on the prohibition of slavery in the Territory, in the 8th Section, was in the Senate 34 to 10, and in the House 134 to 42, and, deducting from the minority five votes, who believed Congress had the power, it made the House vote really 139 to 37, majorities showing the entire confidence of both bodies in the constitutionality, as well as the expediency of extending the benefits of the 6th Article of the Ordinance to the Territories west of the Mississippi. In pursuance of this act Missouri formed her constitution and asked for admission; but she had, by a provision in it in relation to free negroes, created another ground of opposition, which, after various reports and debates, was terminated by a resolution of the 2d of March, 1821, admitting Missouri into the Union upon the fundamental condition that this clause shall never be construed to authorize the passage of a law, and that no law shall be passed in conformity thereto, by which any citizen of either of the States in this Union shall be excluded from the enjoyment of any of the privileges and immunities to which such citizen is entitled under the Constitution of the United States, and upon the Legislature of Missouri declaring the assent of the State to this fundamental condition by a solemn public act, to be transmitted on or before the 4th of November, 1821, to the President, who, upon its receipt, should by proclamation announce the fact, whereupon and without any further proceeding on the part of Congress the admission should be considered as complete. This condition was accepted by the act of the 26th of June, 1821, and on the 10th of August following the President issued his proclamation declaring the admission of Missouri complete according to law.

General Washington, Mr. Adams, Mr. Jefferson, Mr. Madison and Mr. Monroe had directly affirmed the constitutionality of the Ordinance by approving acts of Congress confirming or recognizing it, and by the performance of various executive functions devolved upon them by its provisions. In fact no President in the early stages of the government could hardly have passed a day without its being brought before him, directly or indirectly, in some way or other. Congress recognized its validity, and six States had been admitted into the Union by virtue and in pursuance of its provisions, and three of them within the original North-western Territory, with articles against the existence of slavery within their limits, in conformity to the Ordinance and the acts of Congress enabling them to form their constitutions and State governments.

The 8th section of the Missouri Act was a copy of the 6th article, and was simply extending its effect to uninhabited territory which had neither slaves nor white freemen in it. Its intention was to preserve the soil for a white homogeneous population, which the experience of our country has proved to be the best, the happiest, and the strongest. It took no man's property, and it injured no man.

Mr. Clay, of Kentucky, Mr. Lowndes, of South Carolina, and every eminent man from the South, in the House of Representatives, were in favor of the 8th Section, as constitutional, fair and just. Mr. Sergeant, and the Northern phalanx, of course believed it constitutional, and took it when defeated in the restriction upon the State of Missouri, and Judge Baldwin, who was opposed to the restriction on the State, voted for the restriction on the Territory as entirely constitutional.

The votes in the Senate prove the same state of things there. There was, however, one great man, the most accomplished lawyer of his day, William Pinkney, of Maryland, whose deliberate opinion was exceedingly valuable. He had been elected to the Senate on the 23d December, 1819, and had accepted with a view to the great question of slave restriction. On the 21st January, 1820, he spoke three hours in favor of the admission of Missouri without restriction, without finishing his argument, and on the 24th resumed the remarks he commenced on Friday and spoke nearly two hours in conclusion. It was justly considered one of his most brilliant efforts, but it was never reported, and we have only such parts of it as Mr. Wheaton was able to make out from Mr. Pinkney's notes. These are preserved and inserted in his life by Mr. Wheaton. Mr. Wheaton, p. 612, says: "after going through with that part of his argument relating to this clause of the Constitution, which I have not been able to restore from the imperfect notes in my possession, Mr. Pinkney concluded his speech by expressing a hope that (what he deemed) the perilous principles urged by those in favor of the restriction upon the new States would be disavowed or explained, or that at all events the application of them to the subject under discussion would not be pressed, *but that it might be disposed of in a manner satisfactory to all by a prospective prohibition of slavery in the territory to the north and west of Missouri.*"

This synopsis of the conclusion of his speech is shown to be perfectly correct by a letter of Mr. Pinkney to his son-in-law, Mr. Cumberland D. Williams, dated February, 1820. [Wheaton, p. 167.] "The bill (writes Mr. Pinkney) for the admission of Missouri into the Union (*without* restriction as to slavery) may be considered as past. That bill was sent back again, this morning, from the House, *with the restriction as to slavery.* The Senate voted to amend it by striking out the restriction, (27 to 15,) and proposed, as another amendment, which I have all along been an advocate of, a restriction upon the vacant territory to the North and West as to slavery. To-night the House of Representatives have agreed *to both* of these amendments, in opposition to their former votes, and this affair is settled. To-morrow we shall, of course, recede from our amendments as to Maine, (our object being effected,) and both States will be admitted. This happy result has been accomplished by the conference of which I was a member on the part of the Senate, and of which I prepared the report which has been made."

On the 25th January, 1820, Mr. King, of New York, took his seat in the Senate, having been elected on the 8th January, and on the 11th of February spoke about two hours in support of the right and expediency of restricting the contemplated State of Missouri from permitting slavery therein, and yet the author of the second life of Mr. Pinkney (his nephew) speaks of Mr. Pinkney's speech being an answer to Mr. King, and that Mr. King was so struck by it that he never replied to it.

The Missouri bill having been presented to the President, Mr. Monroe, he requested the written opinions of his cabinet upon two questions, the first was whether Congress has the Constitutional right to prohibit slavery in a Territory. The second was whether the eighth section of the Missouri bill was consistent with the Constitution? The answers to both were unanimously in the affirmative.

The members of Mr. Monroe's cabinet were the most distinguished statesmen and jurists of the

day. Mr. Adams was Secretary of State, Mr. Crawford Secretary of the Treasury, Judge Thompson (afterwards of the Supreme Court of the United States) secretary of the Navy, Mr. Wirt of Virginia, a profound lawyer, Attorney-General, and Mr. Calhoun Secretary of War, the latter having been elected a member of the House of Representatives during the war, and as such continued until his appointment to the cabinet on the 8th October, 1817.

These facts appear by the papers of Mr. Monroe, the Diary of Mr. Adams, and subsequent researches, and by the clear admissions of Mr. Calhoun, made in debate in the Senate, in 1838.

Any reasonable man would have supposed that this decision made with the assent of every constitutional jurist and statesman in the country, was a final settlement of a question which would never again be disturbed so long as the Constitution itself was in existence.

It became the uniform rule under every succeeding President, Mr. Adams, General Jackson and Mr. Tyler—the latter extending it in the most liberal manner to the case of the annexation of Texas.

TEXAS AND THE MISSOURI COMPROMISE.

The treaty for the annexation of Texas having failed in the Senate, it was determined to effect the same object by a joint resolution of Congress. This was undoubtedly the scheme of Mr. Calhoun, who, as Secretary of State, and the Southern leader, was the great master spirit.

On the 25th January, 1845, a joint resolution for annexing Texas to the United States, upon terms similar to the rejected treaty which had been reported by Mr. C. J. Ingersoll from the Committee on Foreign Affairs, with an amendment offered by Mr. Weller, and an amendment to the amendment offered by Mr. Douglas, were under consideration in Committee of the Whole, and the hour fixed for the termination of the debate by the House having arrived, the Committee proceeded to vote on them and the several propositions subsequently offered.

The amendment of Mr. Douglas to the amendment of Mr. Weller, and various others offered by other gentlemen, were successively rejected, until Mr. Milton Brown, of Tennessee, submitted an amendment to it, striking out the amendments of Mr. Weller, after the word "resolved," and inserting what formed the real substance of the joint resolution as it passed both branches of Congress.

The first section gave the consent of Congress to the erection of the Territory belonging to the Republic of Texas into a new State, to be called the State of Texas, with a Republican form of government, in order that the same may be admitted as one of the States of this Union.

The second section, "Resolved, That the foregoing consent of Congress is *given upon the following conditions*, and with the following guarantees, to wit:

The third of which was in these words, "New States of a convenient size, not exceeding four in number, in addition to said State of Texas, and having sufficient population, may hereafter, by the consent of said State, be formed out of the Territory thereof, which shall be entitled to admission under the provisions of the Federal Constitution, and such States as may be formed out of that portion of said Territory, lying South of 36° 30" North latitude, commonly known as the Missouri Compromise Line, shall be admitted into the Union with or without Slavery, as the people of each State asking admission may desire."

Mr. Douglass (of Illinois) asked the gentleman from Tennessee to accept the following as a modification of his amendment, to come in after the last clause: "And in such States as shall be formed out of said Territory, North of said Missouri Compromise Line, slavery or involuntary servitude, except for crime, shall be prohibited."

Mr. M. Brown accepted the modification, and the amendment or substitute as modified, was adopted, and the resolution in this shape finally passed the House on the same day.

In the Senate another section was added, allowing the President, if he deemed it expedient, instead of submitting the foregoing resolution to the Republic of Texas, as an overture on the part of the United States for admission, to negotiate with that Republic upon the terms set forth in another resolution. This was adopted by the Senate and agreed to by the House, and the whole became a law on the 1st March, 1845.

Mr. Buchanan (who was in a minority of one in the Committee of Foreign Relations on this subject) made a very able speech in their favor approving of every part of them, and particularly of the Missouri Compromise line. Speaking of the Missouri Compromise itself, he said emphatically "who could complain of the Compromise? It was then settled that north of 36 deg. 30 min., slavery should be forever prohibited. The same line was fixed upon in the resolutions recently received from the House of Representatives now before us. The bill from the House for the establishment of a territorial government in Oregon excluded slavery altogether from that vast country. How vain were the fears entertained in some quarters of the country that the slave-holding States would ever be able to control the Union!"

Not, however, a vain fear at this day when we read the Cincinnati Platform, of indefinite slavery extension, rendering all the Territories of the United States slave territories by force of its heretical dogmas, and of course making all future States created out of them slave States; and when we also find the eloquent and able Senator selected by the Convention as the exponent of these unconstitutional doctrines.

It was supposed by those who were propitiated by the 3d section inserted in the Senate, giving the option to the President to negotiate, and whose aid was necessary to carry the joint resolution, that the choice of the alternatives would be left to President Polk. Mr. Calhoun, however, determined to clinch the nail before his power expired, and, on the 3d of March, the last day of President Tyler's administration, he wrote a despatch to Mr. Donelson, instructing him, by the President's orders, to present to the government of Texas, as the basis of its admission, the proposals contained in the resolution as it came from the House of Representatives; and, after discussing the feasibility of amendments by Texas, he says: "But it is deemed by the President of great importance that the resolution should be adopted without amendment."

President Tyler, Mr. Calhoun and all the other members of the Cabinet, including Mr. Mason and that distinguished jurist, John Nelson, of Maryland, then Attorney-General, approved and sanctioned the measure of applying the doctrine of the Missouri Compromise to the future admission of a State, to be carved out of slave territory and within whose limits, as an indispensable condition, "slavery or involuntary servitude (except for crime) shall be prohibited."

The 8th Section of the Missouri Act of 1820 affirmed the power of Congress to prohibit slavery in the territories of the United States, the 3d condition of the 2d Section of the Texas joint reso-

the proposition distinctly made in it to the Government of Texas, and then proceeds: "President Tyler having thus determined to adopt the two first of the series of resolutions, instead of the alternative presented by the third, it became the duty of the President to direct his attention to this important question at as early a moment as possible. This has been done, and his deliberations have resulted in a clear and firm conviction that it would be inexpedient to review the decision of his predecessors."

"The President prefers the two first resolutions, because they will, in his judgment, the most speedily and certainly secure the admission of Texas into the Union."

"In every aspect in which the President has viewed this subject, he believes that the paramount question of admission can be best settled, and the just rights of Texas can be best secured, by her acceptance without qualification of the *terms and conditions* proposed by the first two resolutions, and he therefore confidently expects that you will exert your well known ability and energy to secure this auspicious result by every honorable means in your power."

On the 23d June, 1845, the existing government of Texas gave their consent to all the provisions of the joint resolutions of the American Congress for annexing Texas to the United States, and a convention of delegates to form a State Constitution, to be held on the 4th July, 1845, was also sanctioned.

This Convention met and passed an ordinance, on the 4th July, 1845, giving the assent of the people of Texas to the proposals conditions and guarantees contained in the first and second sections of the joint resolution of the Congress of the United States, as recited in said ordinance. This Convention, on the 27th August, adopted a Constitution, by the 13th section of the schedule to which the aforesaid ordinance of the 4th July was attached, and formed a part of the same. The people of Texas, at the polls, accepted the terms of annexation and ratified the Constitution.

By a joint resolution of the 29th December, 1845, reciting the joint resolutions of the 1st March, and all the acts done by the government and people of Texas already stated, the State of Texas was admitted into the Union.

President Polk carried out in full the plan adopted by Mr. Calhoun, and he and all his Cabinet, including Mr. Buchanan and Mr. Walker, who had advocated the measure in the Senate, fully approved and sanctioned the Constitutional power of Congress over slavery, so clearly asserted in the second section of this celebrated joint resolution.

At the close of his Presidential career, President Polk, having on the 14th August, 1848, approved the Oregon bill, which, in its 14th section, contained an extension of the Ordinance of 1787 to that Territory, sent a message to the House of Representatives, stating his reasons for signing it, in which he distictly affirmed the Constitutionality and expediency of the Texas and Missouri Compromise which I have just discussed.

Of our acquisitions from Mexico:

California was admitted into the Union as a free State. Territorial governments were formed for New Mexico and Utah, and the Northern boundary of the State of Texas was settled with her consent. The Legislation of 1850 was confined entirely to these Territories, and was not in any manner extended to the Territory covered by the 8th section of the act of 1820, nor did any man dream that it could be until it became necessary to find an excuse for making Kansas a slave State.

lution of 1845, distinctly affirmed the power of Congress to impose upon a State taken from slave territory, as a *sine qua non*, that slavery should be prohibited within its boundaries.

Upon the accession of President Polk, Mr. Buchanan, as Secretary of State, writes on the 10th of March to Mr. Donelson, noticing the despatch of Mr. Calhoun of the 3d inst., and stating

By the treaty with Spain of 1819, and the 8th Section of the Missouri Act of 1820, the South got three slave States—Missouri, Arkansas and Florida—comprising all the then territory within the limits of the United States south of 36 deg. 30 min. with the exception of the territory reserved for the Indians. The benefit to the free States and their white freemen was prospective, and only one free State, Iowa, has been admitted out of the territory devoted to Freedom. The South have obtained six Senators, Freedom only two.

After the accession of President Pierce, who owed his nomination to Virginia and the slave States, the South were encouraged to attempt a destruction of the Compromise under the lead of the Senator from Illinois. It was, however, approached cautiously and warily, and with many backings and fillings on the part of the projectors and the Government organ.

New Mexico and California were free by the law of nations, Slavery being prohibited by the laws and constitution of Mexico, and of course would remain so until altered by an act of Congress. This was the opinion of Mr. Clay and all the eminent men in 1850.

Small men carped at the docrine, and the acts for the Territorial governments of Utah and New Mexico did not decide it.

The Missouri Compromise was fixed by an act of Congress, which must stand until repealed, for it was a clear absurdity to call it unconstitutional. The Committee on Territories, however willing to escape from the odium of direct repeal, thought there was a resemblance between the two cases, and they accordingly said in their report to the Senate on the 4th January, 1854, "your committee are not prepared to recommend a departure from the course pursued on that memorable occasion, either by affirming or repealing the 8th section of the Missouri Act, or by any act declaratory of the meaning of the Constitution in respect to the legal points in dispute."

The Committee were, however, by the outside pressure, and the manly declaration of Mr. Dixon, of Kentucky, that he would move a direct repeal, forced at last into an indirect nullification of the 8th section, as it appears in the 32d section of the act to organize the Territories of Nebraska and Kansas. Mark the words:

"That the Constitution and laws of the United States, which are not locally inapplicable, shall have the same force and effect within the said Territory of Kansas as elsewhere within the United States, except the 8th section of the act preparatory to the admission of Missouri into the Union, approved March 6th, 1820, which being inconsistent with the principle of non-intervention by Congress with slavery in the States and Territories as recognized by the legislation of 1850, commonly called the Compromise measures, is hereby declared inoperative and void, it being the true intent and meaning of this act not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States. Provided, that nothing herein contained shall be construed to re-

vive or put in force any law or regulation which may have existed prior to the act of 6th of March, 1820, either protecting, establishing prohibiting or abolishing slavery."

It is perfectly clear from this clause 1. That the Compromise measures of 1850 did not touch or in any manner reach the Territory covered by the prohibition in the 8 h section of the act of the 6th March, 1820. 2. That the Compromise of 1850 related to new acquisitions, whilst the Compromise of 1820 related exclusively to territory then owned by the United States, and the subject of division at the time into slave andfree Territory by mutual agreement.

3. That the reason assigned for declaring the 8th section inoperative and void is not founded in fact, for no sane man in 1850 dreamed of affecting the Compromise of 1820, which stood on its own merits, and applied to entirely different territory, differently circumstanced, and on the faith of which Compromise the three slave States of Missouri, Arkansas and Florida had been admitted into the Union.

4. That the disclaimer of legislation looks exceedingly as if Congress thought they possessed the power to deal with slavery in the Territory, particularly when they give authority to the people to act upon it. If the people of the Territory derive their power from the section to admit or exclude slavery, then Congress, who vest them with it, must undoubtedly have the same power, and can prohibit slavery whenever such is their pleasure.

5. That the 8th section of the act of 1820, like the 6th article of the Ordinance of 1787, and the last clause in the 3d condition of the 2d section of the joint resolution for annexing Texas to the United States, is constitutional.

From the review of the Constitution, and Territorial legislation of the United States, it is abundantly certain that the 6th article of the Ordinance of 1787, and the Missouri and Texas Compromises, which were but extensions of it, were clearly Constitutional measures, and intended to work out the greatest good for the greatest number.

From the earlier provisions have sprung the six great free States of Ohio, Indiana, Illinois, Michigan, Wisconsin and Iowa, which number no doubt at this hour as many white free inhabitants as the whole fifteen slave States put together.

I should not have pursued the argument to this extent, if the Cincinnati Convention, in their platform, had not expressly declared that Congress had no power to interfere with slavery in the Territories, or in the District of Columbia. I think I have shewn conclusively that they have the power over slavery in the Territories, and have exercised it from the commencement of the government, and *this is the real issue in this campaign.* The power over slavery in the District of Columbia, I have never heard doubted by any sound jurist or statesman, and it is obvious to any one who will read the plain words of the Constitution. The Congress shall have power "to exercise *exclusive* legislation *in all cases whatsoever,* over such District;" and singular as it may appear to the members of the Cincinnati Convention, one of the celebrated compromise measures of 1850, was "an act to suppress the slave trade in the District of Columbia," which under this new reading of the Constitution, should be instantly repealed. The expediency of further interference has been doubted by very able men, and as it is not one of the issues at the ensuing election, I dismiss it with these few observations.

Both of these planks in the platform are rotten, and the candidate who stands upon them, must fall to the ground.

I can say, therefore, with perfect freedom and entire truth, that this actual repeal of the Missouri Compromise by the Nebraska-Kansas Act, was a breach of national faith and violation of national honor, which was rebuked by the people in 1854, and will be still more severely punished in 1856, when the crimes against Kansas and its unoffending free citizens have been made known to the whole civilized world in the most authentic form.

KANSAS.

The apparent plan of the Kansas Bill was to leave the *people of the Territory perfectly free* to form and regulate *their domestic institutions* in their own way.

This clearly meant that this was not to be done by the *people of Missouri,* but by those who made the territory their home and not a mere place of transit or temporary sojourn. There was another difficulty, under the Constitution the slaveholder claims a right to enter any territory with his slaves and assumes as a principle that all the territory of the United States is slave territory and that no territorial legislature can exclude him and his human chattels. The territory under this construction necessarily becomes slave territory, and therefore the other provision of the Kansas Bill that when admitted as a State it shall be received into the Union with or without slavery as the Constitution may prescribe, is a mere nullity and an absolute farce, as a slave territory must always become a slave State.

Into these difficulties has the criminal violation of a solemn compromise led the apparent friends but real enemies of popular sovereignty, and the practice under the organic laws of Kansas, is the best proof of the soundness of the Constitutional doctrine of the supreme and exclusive power of Congress over the territories in their territorial form.

Who can protect an infant Territory and its citizens against the invasion of the hordes of an adjoining State but Congress? The Territory, sparsely settled cannot resist a foreign invasion, and a populous State can easily conquer and subdue its few inhabitants.

Under such theories and practice every new Territory must belong to the next State and become its prey, and, instead of all the citizens of the thirty-one States having any lot or part in it, it must become the property of the one State which cuts it off from all communication with any others.

Now this has been exactly the case of Kansas. The access to her is through the State of Missouri and by the Missouri river. No free State man could travel with his family by land or water without being stopped, robbed of his property, his arms (if he had any) taken from him and confiscated to the use of his plunderers; and, if not tarred and feathered or shot and scalped, turned back and directed to leave the State and not to attempt to enter Kansas. In and out of Kansas unoffending men, Methodist ministers, members of the Society of Friends, merchants, tradesmen, mechanics and farmers, with their wives and families, have been exposed to all kinds of ill treatment because they preferred freedom to slavery and wished Kansas to be a free Territory and a free State. For all these outrages and murders not one single individual has had any redress, nor has one single guilty person ever been punished.

It would be a dangerous matter for any one to complain of such acts to any tribunal or officer, either in Kansas or Missouri. This is no exaggerated picture, but is far below the truth. The

policy of the Border Ruffian party has been to prevent all free white citizens, who were not devoted to slavery, from entering Kansas by any route, and if they reached the Territory to drive them out by threats of violence, or the application of a direct force, in its most dangerous form.

I have examined with care the report of the Committee of the House of Representatives, appointed to investigate the troubles in Kansas, and fully agree with them in the facts and conclusions which they regard as established by the testimony.

They are to be found at page 67 of the Report No. 200, 34 Congress, 1 session House of Representatives. Amongst them are: "First, that each election in the Territory, held under the organic or alleged territorial law, has been carried by organized invasion from the State of Missouri, by which the people of the Territory have been prevented from exercising the rights secured to them by the organic law."

"Second, That the alleged territorial legislature was an illegally constituted body, and had no power to pass valid laws, and their enactments are therefore null and void."

"Third. That these alleged laws have not been, as a general thing, used to protect persons and property and to punish wrong, but for unlawful purposes."

The election for members of the Territorial Legislature was held on the 30th March, 1855, and it is proved by incontestible evidence that by an organized movement which extended over a large portion of the border counties of Missouri, companies of men were arranged and sent into every council district in the Territory, and into every Representative district but one, and the numbers were so distributed as to control the election in each district. They went to vote and with the avowed design to make Kansas a slave State, and were generally armed and equipped and carried with them their own provisions. They succeeded by force, fraud, intimidation and violence, and returned pro-slavery members of the Territorial Legislature, elected by the citizens of the State of Missouri, who, to the number of nearly 5,000, had voted in the several election districts.

It was, in fact, a Missouri, not a Kansas election, and the Legislature was a Missouri, and not a Kansas one.

A parallel to such an outrage could only be found in supposing that we should send 20,000 armed men into the State of Delaware who should take possession of the polls, elect a Governor, a Legislature, and all the State and county officers, and then ask the people to submit to cruel and infamous laws passed by this spurious legislative body, and the whole should be recognised by the President of the United States as the regular government of Delaware, and all opposition to it put down by the army of the United States.

These pretended laws of Kansas are, for the most part, transcripts of the Missouri laws, from the Digest of 1845, and form additional evidence of its being solely a Missouri legislature.

These laws assume that slavery exists in Kansas. There is no act establishing slavery, or declaring human beings to be property, but all the enactments proceed upon the principle that, by the Nebraska-Kansas act and the Constitution of the United States, this is one of the original domestic institutions of the Territory. According to this doctrine it was slave territory before any Legislature was elected, or any Governor or Judges were appointed.

Thus, in the first section of the act (ch. 131) to punish offences against slave property, it was enacted "That every person, bond or free, who shall be convicted of actually raising a rebellion or insurrection of slaves, free negroes, or mulattoes in this Territory, shall suffer death;" which means that the citizen who believes this to be a free Territory is to be hung.

"Sect. 12. If any free person, by speaking or by writing, assert or maintain that persons have not the right to hold slaves in this Territory, or shall introduce into this Territory, print or publish, write, circulate, or cause to be introduced into this Territory any book, paper, magazine, pamphlet or circular containing any denial of the right of persons to hold slaves in this Territory, such persons shall be *deemed guilty of felony*, and punished by imprisonment at hard labor for a term of not less than two years."

This is clearly on a par with Mr. Sherwood in Texas being prohibited by a public meeting from addressing his constituents in defence of his course in the Legislature, unless he omitted all allusions to slavery, his offence being that he had asserted the power of Congress to prohibit slavery in the Territories, in other words, to pass the Missouri Compromise Act; or with Mr. Underwood, being exiled from his home in Virginia because he was a member of the Republican Convention in this city; or with the two honest Irishmen, Malone and Colwell, being sent away from South Carolina and advertised like runaway slaves, or criminals escaped from the penitentiary, because one of them said he was in favor of Free Kansas; with the expulsion of the booksellers from Mobile, and the outrages upon free speech at Wheeling and Baltimore; and the still greater outrage upon the freedom of debate by the brutal attack upon Mr. Sumner, which has disgraced the country in the eyes of the whole civilized world.

But there is still another section, under which any conscientious free State man, who even hands to his neighbour this speech or any other harangue delivered in the free States upon the coming elections, may be visited with a much severer punishment, for it is only pro-slavery juries and judges who can try him by the laws of Kansas.

"Sect. 11. If any person print, write, introduce into, publish, or circulate, or cause to be brought into, printed, written, published or circulated, or shall knowingly aid or assist in bringing into, printing, publishing, or circulating within this Territory any book, paper, pamphlet, magazine, hand-bill, or circular, containing any *statements, arguments, opinions, sentiments, doctrine, advice or inuendo*, calculated to produce a disorderly, dangerous or rebellious disaffection among the slaves in this Territory, or to induce slaves to escape from the service of their masters or to resist their authority, he shall be guilty of felony and be punished by imprisonment at hard labour for a term of not less than five years."

From these enactments it is certain that a speech in favor of Fremont in Kansas would place the speaker in the penitentiary, or rather condemn him to the ball and chain.

Under such laws no man could advocate any candidate upon the ground either that he was opposed to slavery in Kansas and would so vote in the Legislature, or if in a convention to form a State government, would vote for the prohibition of slavery in the constitution. These laws, in fact, nullify all the provisions of the organic law.

The provisions as to Attorneys-at-Law, Jurors and voters are all intended, by prescribing oaths which cannot be taken by free State men, to throw the whole power of the legislative and judicial branches of Government into the hands of pro-slavery men of the Border-ruffian stamp, which,

with the appointments by the executive at Washington, give the whole power in Kansas to the Missouri invaders.

No matter, therefore, what may be the majority of free State men in Kansas, under such laws they are powerless.

There is every reason, therefore, that being null and void, these laws should be nullified forever by a change in the administration at Washington, which can be done by an united effort of the friends of freedom in Pennsylvania in favor of Fremont and Dayton.

These crimes in Kansas and Missouri, the acts of fraud and violence committed by the Border Ruffians in both, the acts I have already enumerated, and not the least the killing of the innocent and unoffending Keating, not one of which crimes have ever been, or ever will be, punished, by the authorities in the slave States, can only be accounted for by the deliberate opinion of Thomas Jefferson, of the dreadful effect of slavery upon the masters: "There must doubtless, be," said this eminent patriot, "an unhappy influence on the manners of our people, produced by the existence of slavery among us. The whole commerce between master and slave is a perpetual exercise of the most boisterous passions, the most unremitting despotism on the one part, and degrading submission on the other. Our children see this and learn to imitate it; for man is an imitative animal. This quality is the germ of all education in him. From his cradle to his grave he is learning to do what he sees others do. If a parent could find no motive either in his philanthropy or his self-love, for restraining the intemperance of passion towards his slave, it should always be a sufficient one that his child is present. But generally it is not sufficient. The parent storms, the child looks on, catches the lineaments of wrath, puts on the same airs in the circle of smaller slaves, *gives a loose to his worst of passions*, and thus nursed, educated and daily exercised in tyranny, cannot but be stamped by it with odious peculiarities. The man must be a prodigy who can retain his manners and morals undepraved by such circumstances, *and with what execration should the statesman be loaded who, permitting one half of the citizens thus to trample on the rights of the other, transforms those into despots and these into enemies, destroys the morals of the one part and the amor patriæ of the other!*"

After perusing this painful picture by the author of the immortal Declaration of Independence, what true-hearted son of Pennsylvania can refuse to vote for free Kansas.

The judicial department in Kansas appears to be on a level with the Legislature, if the accounts of the charges and decisions of the Judge be correct. It was supposed that the Treason Trials at Philadelphia had disposed of the whole doctrine of constructive treason, by showing that the English decisions in Messenger and Dumaree and Purchase's cases were not regarded as good law, even in England, the first being the miserable opinion of one of the most contemptible judges that ever disgraced the bench of a court of justice, and the other being founded upon it.

It appears, however, that the Chief Justice of Kansas believes in constructive treason, and that it consists, in his opinion, in an opposition to the Territorial laws, which, being passed under the authority of the Nebraska-Kansas Act by the Territorial Legislature, he says *become laws of the United States*, and, therefore, it is treason against the United States!

This is upon a par with the Grand Jury of his Court finding a printing press and hotel, in Lawrence, nuisances, and their abatement in consequence of these findings, by the officers of justice, at the head of a body of armed ruffians, cannonading and burning the one, and destroying the other.

If General Jackson had been President instead of General Pierce, not one of these crimes against Kansas would have been committed, the Missouri Compromise would never have been repealed, the Border Ruffians never would have invaded and taken military possession of the Territory, nor would the access by the great highway of the Missouri have been closed against the free citizens of the free States for a single hour. Every man who hears me knows and feels this to be true. His name alone would have awed the fiercest spirits into submission to the majesty of the law.

CUBA AND THE OSTEND MANIFESTO.

I spent some weeks in Cuba, this spring, for the benefit of the health of a near relative, who required the change to a milder climate. Our party, none of whom spoke the Spanish language, after staying some days in the picturesque city of Havana, crossed to the south side, and remained for some time on one of the finest sugar plantations in the island, belonging to a friend. During our whole visit we found the authorities of the island very friendly, and particularly attentive to Americans, whilst we were received and treated by all the inhabitants we saw in the course of our travels, with a politeness, kindness, and courtesy peculiar to the Spanish nation.

I am unable, therefore, to appreciate the morality or justice of taking Cuba by force if Spain will not sell it, and to look with coolness on the devastation and ruin which must await this delightful island and its inhabitants if invaded by the army and navy of the United States.

It was to be hoped that the celebrated Ostend manifesto would have sunk into oblivion: but as it has been made one of the planks of the Cincinnati platform, by language which will be interpreted to suit the occasion, it is but proper and right to express our disapprobation of the doctrines and principles contained in it.

The almost fabulous sum which has been offered for the Island could be much better applied to the construction of the great railroad to the Pacific, which will be carried through Kansas *if free*, and which will give us a certain and swift line of communication within our own Territories between the two oceans without embroiling ourselves with foreign nations.

FREE LABOR.

I should not have said another word on the evils of slavery except for the constant and unremitting attacks of Southern politicians and of the Southern press supporting the Cincinnati platform and its nominees, upon the free white citizens of the North, with their wives and families, who live by the honest labor of their own hands.

Slavery is declared to be a patriarchal institution necessary for the advancement of the human race, and that it includes from necessity both whites and blacks. "The South maintains that slavery is *right, natural* and *necessary*, and does not depend upon difference of *complexion*. The laws of the slave States *justify* the holding of *white men* in bondage."—*Richmond Enquirer*.

"Slavery is the natural and normal condition of the laboring man, whether *white* or *black*. The great evil of Northern society is that it is burthened with a servile class of *mechanics* and *la-*

borers, unfit for self-government, and yet clothed with the attributes and powers of citizens."

"We have got to hating everything with the prefix *free*, from free negroes down and through the whole catalogue, free farms, free labor, free society, free will, free thinking, free children and free schools, all belonging to the same brood of *damnable isms*."—(*South Side Democrat.*)

"Free Society! we sicken of the name—what is it but a conglomeration of greasy mechanics, filthy operatives, small fisted farmers, and moon struck theorists."—(*Muscogee Herald.*)

These are true extracts from the Southern papers all advocating the Cincinnati platform, and exhibiting the real views of the Southern apostles who are wandering through our State to teach the people of Pennsylvania to prefer slavery to freedom, to prefer being "owned" instead of being hired.

In the Southern States there are upwards of three millions of people without the divine institution of marriage, who have neither wives, husbands, nor children, except as the foal follows the mare. All, from infancy to old age, without distinction of sex, or even of color (for the shades are from black to white,) are liable to whipping—cruel and immoderate whipping—in private by their masters, provided it does not affect life or limb. The infant may be separated from its mother, and be sold into distant slavery, at the will or caprice of the master, or by the iron hand of the law. Three millions of souls in a Christian land, whether slave or free, are forbidden to learn to read or write, and of course forbidden to read the Bible; whilst free white women are punished with fine and imprisonment for doing what, on the coast of Africa, would be considered the chief end of missionary labor. The vices and degradation of slavery need no enumeration; and their effect on the white races has been graphically portrayed by Col. Mason, of Virginia. "Christians," says a Southern Judge, "how can we justify it that a slave is not to be allowed to read the Bible?"

In the South, no large cities call for free white mechanical or other labor, and the interior is virtually closed to all free white labour by the wealthy slave owner, who employs only his white overseers and his black slaves, whether in the labor of the field, the house, the shop and even in the manufactory.

In a Southern State all free white male, (and in some places female) inhabitants are liable to do patrol duty, that is to watch over the slaves of their rich neighbors, and they are called out at least once a fortnight, and may correct with stripes, all slaves infringing the slave regulations in the slightest particular.

Does any free white man, with his family and their labor, think of going to South Carolina, the head quarters of Southern slavery? If this be so, why should such a system be tolerated for a moment in territory now free, and thus exclude the native Pennsylvanian, or the hardy emigrant from Europe for settling in the far West. The introduction of slavery is the permanent exclusion of the white freemen and free white labor.

I have not thought it worth while to paint the true state of society in the North, with its manifold blessings, for they are known and felt by all of us. So great are our improvements that I was assured by a gentleman intimately acquainted with both the North and the South, that the respectable mechanics of Philadelphia had better accommodations, and enjoyed in fact more real comforts than the Georgia planter did on his plantation.

PENNSYLVANIA

UPON THE SUBJECT OF SLAVERY, FROM THE ACT OF 1780 TO THE PRESENT TIME. THE LEGISLATURE OF PENNSYLVANIA IN FAVOR OF FREEDOM

In the year 1819, Mr. Buchanan was one of a committee who reported resolutions to a meeting, held at Lancaster, requesting their Representatives in Congress to use their utmost endeavors to prevent the existence of slavery in any of the Territories or States which may be erected by Congress. In the same year were passed unanimously by the Legislature, the celebrated preamble and resolutions, offered by Mr. W. J. Duane, against the admission of Missouri as a slave State. It was signed by Governor Findlay, and it spoke the sentiments of the whole State.

On the 23d January, 1829, a resolution was passed unanimously in the Senate, and by a vote of 81 to 8 in the House, "That the Senators of this State, in the Senate of the United States, be and they are hereby instructed, and the Representatives of this State in Congress be and they are hereby requested to procure, if practicable, the passage of a law to abolish slavery in the District of Columbia, in such a manner as they may consider consistent with the rights of individuals and the Constitution of the United States."

It was signed by the present Treasurer of the Mint, as Speaker of the Senate, and approved by Governor Shulze, and it was voted for in the Senate and the House by two gentlemen who were afterwards members of Governor Shunk's Cabinet.

On the 22d January, 1847, a resolution, offered by a Democratic member, passed the House unanimously and the Senate with only three dissentients, requesting our Senators and Representatives to vote against any measure by which Territories may accrue to the Union, unless, as part of the fundamental law upon which any compact or treaty for this purpose is based, slavery or involuntary servitude, except for crime, shall be forever prohibited. This met the approbation of Governor Shunk.

On the 3d of March, 1847, an Act was passed and approved by Governor Shunk, abolishing the last remnant of slavery within our own limits, so that every man, except a fugitive from labor, upon touching the soil of Pennsylvania became a free man.

Mr. Buchanan wrote a letter to the Democratic citizens of Reading, at their celebration on the 4th of July, 1847, recommending the Missouri Compromise Line.

On the 4th of July, 1849, a resolution was passed unanimously at the Democratic State Convention, held at Pittsburgh, against the extension of slavery to the Territories, and its nominee for Canal Commissioner, Mr. Gamble, wrote a letter recognizing, in the strongest terms, the power of Congress to prohibit slavery in the Territories, and the propriety of doing so. Mr. Gamble was elected by a large majority.

THE PLATFORMS.

Of late years the South have adopted the policy of nominating Northern men with Southern principles, and to them has virtually been given the privilege of selecting the candidate, and announcing the principles upon which his administration is to be conducted.

Thus, though in a decided minority, by always acting as an united force, they have secured to themselves the whole power of shaping the policy of the government.

The South itself, against its will, is governed by a small body of slaveholders, who, founding their

power upon their ownership of human beings, are constantly engaged in plans to enlarge the area of slavery so as to afford a larger market for their human chattels. The effect of this is to place the government in the possession of a privileged class, a sort of slave nobility, and the President becomes a puppet in the hands of irresponsible and interested advisers, who force him into measures which his better nature would shrink from.

As their policy has prospered so has their audacity increased, until at last, at Cincinnati, it is developed in a form which will leave little more to be done in favor of slavery by the next Convention, which meets at Charleston, the hot-bed of Southern slave fanaticism.

The Cincinnati Platform, in plain words, negatives all power in Congress over slavery in the Territories, and, as a corollary, refuses it to the people of the Territory, who cannot have what Congress has not, and which, of course, it cannot delegate to another. The result is the adoption of the new-fangled Southern theory, spun out of brains of men who profess to believe slavery to be a divine institution, intended for the benefit of man in his most progressive state, that any slaveholder has a right to take his slaves into any of the Territories of the United States, and to hold them there as he would in the State from which he emigrated. The effect of this monstrous doctrine is to change all the territory of the United States, whether Oregon, Washington, Minnesota, New Mexico, Utah, Kansas or Nebraska into slave territory.

The effect of this would be to surrender 842,-119,040 acres to 347,225 slaveholders, and to exclude the remaining 19,205,843 free white inhabitants of the United States from all enjoyment of them, or any participation in their government, and finally to erect them into an indefinite number of slave States.

The Convention at Charleston, in 1860, can only add to this degradation of free white men and free white labor, and the entire prostration of free speech and of a free press; the re-establishment of the African slave trade, which we have denounced in the face of the civilized world as a crime against the law of nature and abhorrent to humanity, stigmatized it as piracy, and punished it with death. There is, however, one thing further, which the slaveholders have already practically asserted, and which may be, and no doubt will be, inserted in the Charleston platform, their inherent right to carry into and hold their slaves in the free States against the express prohibitions of their constitutions and their laws.

These Southern heresies thus publicly announced by regular Conventions of the party, if not resisted and put down at the outset, not only enter into the policy of the Executive Government, but finally make their appearance in the judicial decisions of the country. In the Southern States, where all the judges are slaveholders, the original line of decision, which in conformity with the common law was always in favor of freedom and against slavery, has been entirely reversed, and the contrary rule is now firmly established.

These dogmas thus made law by interested and prejudiced Courts, are finally used in the highest tribunal of the nation as binding authorities, although contrary to all the received doctrines of the Common Law, and the old established principles of American Liberty. In fine, the result and the true object of the Cincinnati Platform is to make Kansas a Slave State.

Upon this Pro Slavery Platform stand its nominees, James Buchanan and John C. Breckinridge, the latter gentleman agreeing in opinion and feeling with all its doctrines, and the first bound to carry them out to their fullest extent by his unqualified acceptance of the nomination and of the principles upon which it was made.

Of the three proposed candidates of the Democratic party I preferred Mr. Buchanan, and if he had been placed before the country upon principles which I could have approved, he would undoubtedly have received my vote at the ensuing Presidential election.

But the platform on which he stands renders it impossible for me to vote for him, and I am therefore obliged to look for my candidate in some other quarter.

I have carefully studied the Republican platform, and its principles meet my most cordial approbation. I disapprove of polygamy in Utah as I do of slavery in Kansas, for both are against the natural and revealed law, the one in allowing a man to have forty wives and the other in not permitting him to have any at all. I am against seizing Cuba under any pretence whatever, and in favor of devoting the money intended for the purchase of a slave colony and a slave State to the erection of the great Pacific Railroad, terminating on the shores of the western ocean.

I am in favor of the restoration of the Missouri Compromise, of Kansas being a free territory and a free State; and to obtain all these great objects I have no other option left than to vote for John Charles Freemont of California and William L. Dayton of New Jersey as President and Vice President of the United States.

Colonel Fremont is in the prime of life and near the same age as General Washington was, when he accepted the command of the American armies and surprised the British at Trenton, one of his most brilliant exploits.

Colonel Fremont is a man of great natural sagacity, and possesses a calm, clear judgment, improved by study and a large experience of human nature in all its forms, whether of savage or civilized life. He is unassuming in his manners, with a striking personal appearance and a remarkably fine eye, strongly indicative of a prominent feature in his character, a firm and vigorous will.

His administration will bring back those good old days when the incumbent of the White House was the actual President, and governed his Cabinet as well as the people of America.

William L. Dayton is the ablest lawyer of his native State, distinguished as it always has been for its eminent jurists, and in the Senate of the United States was conspicuous for his talents, his eloquence, and his statesmanlike views. He is dignified and courteous in his bearing, and will make an admirable presiding officer in the Senate of the Union.

What then, fellow-citizens, are we to do, who are in favour of Free Kansas and Free Territory and Free Labour at the coming elections?

There can be but one answer, to vote for

FREMONT AND DAYTON.